

Message Text

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PAGE 01 STATE 182371

65

ORIGIN ARA-10

INFO OCT-01 ISO-00 L-03 SP-02 AID-05 EB-07 NSC-05 CIEP-01

TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 COME-00

FRB-03 INR-07 NSAE-00 XMB-02 OPIC-03 LAB-04 SIL-01

INT-05 H-02 PA-01 PRS-01 SSO-00 NSCE-00 USIE-00

INRE-00 /084 R

DRAFTED BY L/ARA:DGANTZ; ARA/ECP:JO'MAHONY:BGT

APPROVED BY ARA:HARYAN

ARA/EP:JKING

L:SSCHWEBEL

ARA:AFISHLOW

EB:RSMITH

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O 012203Z AUG 75 ZFF4

FM SECSTATE WASHDC

TO AMEMBASSY LIMA NIACT IMMEDIATE

C O N F I D E N T I A L STATE 182371

E.O. 11652: GDS

TAGS:EINV, EMIN, PFOR, EWWT, PE, US

SUBJECT: MARCONA EXPROPRIATION

1. TEXT OF AIDE MEMOIRE FOR DELIVERY DURING AMBASSADOR'S MEETING WITH DE LA FLOR AND/OR MORALES BERMUDEZ AUGUST 4 GIVEN PARA 2 BELOW. DEPT. WILL PRESENT COPY TO AMBASSADOR ARCE ON SAME DATE.

2. AIDE MEMOIRE:

MY GOVERNMENT HAS INSTRUCTED ME TO RAISE WITH YOU ISSUES RELATING TO THE RECENT EXPROPRIATION, UNDER
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PAGE 02 STATE 182371

DECREE LAW 21228 OF JULY 22, 1975, OF THE PERUVIAN BRANCH

ASSETS OF THE MARCONA MINING COMPANY, A UNITED STATES CORPORATION.

MY GOVERNMENT IS CONCERNED THAT, DESPITE THE FACT THAT NEGOTIATIONS WERE IN PROGRESS BETWEEN REPRESENTATIVES OF MARCONA AND THE GOVERNMENT OF PERU, YOUR GOVERNMENT ABRUPTLY EXPROPRIATED MARCONA WITHOUT EXPRESS PROVISION FOR THE PAYMENT OF PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION FOR MARCONA'S RIGHTS AND ASSETS IN PERU. MY GOVERNMENT ASSUMES, HOWEVER, THAT THE GOVERNMENT OF PERU, WHICH HAS AMICABLE AND BENEFICIAL RELATIONS WITH THE UNITED STATES AND WHICH IN RECENT YEARS HAS DISPLAYED A SPIRIT OF COOPERATION IN SETTLING OTHER ISSUES INVOLVING U.S. INVESTMENTS IN PERU, INTENDS TO ESTABLISH PROCEDURES IMMEDIATELY IN ORDER TO ARRIVE AT THE AMOUNT OF COMPENSATION THAT MARCONA IS TO BE PAID.

IN THIS REGARD, MY GOVERNMENT APPRECIATES THE INFORMAL ASSURANCES IT HAS RECEIVED FROM HIGH OFFICIALS OF THE GOVERNMENT OF PERU THAT PROPER LEGAL PROCEDURES WILL BE FOLLOWED IN THIS CASE. IT ALSO UNDERSTANDS THAT, UNDER PERUVIAN LAW, A COMPANY EXPROPRIATED IN PERU HAS THE RIGHT TO RECEIVE COMPENSATION BASED ON THE FAIR VALUE OF THE CONCERN. THE PROCESS INVOLVED, MY GOVERNMENT ASSUMES, WILL PERMIT THE DETERMINATION OF COMPENSATION WITHIN A REASONABLE PERIOD OF TIME, AND WILL PROVIDE FOR PARTICIPATION BY DULY AUTHORIZED REPRESENTATIVES OF THE MARCONA MINING COMPANY.

MY GOVERNMENT, ANXIOUS FOR THE CONTINUATION OF CONSTRUCTIVE RELATIONS BETWEEN OUR TWO COUNTRIES, WOULD APPRECIATE RECEIVING FROM THE GOVERNMENT OF PERU EARLY CLARIFICATION REGARDING THE PROCEDURES WHICH ARE TO BE FOLLOWED BY THE GOVERNMENT OF PERU IN ENSURING THAT JUST COMPENSATION WILL BE PAID TO THE MARCONA MINING COMPANY FOR ALL OF ITS ASSETS AND RIGHTS IN PERU.

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